

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No. 09-cr-177-01-JD

Robert Gallant

O R D E R

A grand jury returned an eight-count indictment against Robert Gallant on November 4, 2009, alleging four counts of false representation of social security number, in violation of 42 U.S.C. § 408(a)(7)(B) (Counts I, III, IV, and V); three counts of aggravated identity theft, in violation of 18 U.S.C. § 1028A(a)(1)(b) and (c) (Counts II, VI, and VIII); and one count of bank fraud, in violation of 18 U.S.C. § 1344 (Count VII). Gallant moved to dismiss counts II, VI, VII, and VIII, and the government objected. On January 20, 2010, a grand jury returned a superseding indictment, which alleges six counts of false representation of social security number (Counts I, III, IV, V, VII, and VIII), four counts of aggravated identity theft (Counts II, VI, IX, and XI), and one count of bank fraud (Count X).

Because the charges in the four counts Gallant moves to dismiss from the original indictment are materially different in the superseding indictment, his motion no longer pertains to the applicable charging document. Therefore, the pending motion is

terminated, and Gallant is given an opportunity to file a new motion to dismiss, to address the superseding indictment.

Conclusion

For the foregoing reasons, the defendant's motion to dismiss (document no. 13) is terminated. If he chooses to do so, the defendant shall file a new motion to dismiss **on or before February 3, 2010**. The government shall file its response **on or before February 10, 2010**.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

January 27, 2010

cc: Alfred J.T. Rubega, Esquire
Jonathan R. Saxe, Esquire